

2003 DRAFTING REQUEST

Senate Amendment (SA-SB44)

Received: **06/04/2003**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Dyck**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Drunk Driving - alcohol level**

Extra Copies: **ARG, TNF**

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Dyck -

Topic:

Lowering the prohibited blood alcohol concentration

Instructions:

remove governor's provisions

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	phurley 06/05/2003	kgilfoy 06/05/2003	rschluet 06/05/2003	_____	sbasford 06/05/2003		

FE Sent For:

<END>

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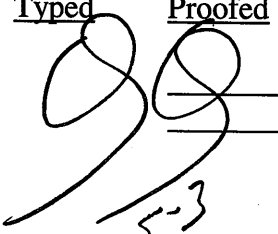
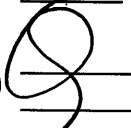
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/1	phurley	1-6/5 King					
			6-5-3				<END>

FE Sent For:

DOA:.....Schaeffer – BB0228, Prohibited blood alcohol concentration
FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: prohibited alcohol concentration.

Analysis by the Legislative Reference Bureau

TRANSPORTATION

DRIVERS AND MOTOR VEHICLES

Under current law, a person may not operate a motor vehicle if he or she has an alcohol concentration of 0.1 or more. If a person has two convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.08 or more. If a person has three or more convictions relating to operating a motor vehicle with a prohibited alcohol concentration, he or she may not operate a motor vehicle if he or she has an alcohol concentration of 0.02 or more.

This bill changes the prohibited alcohol concentration from 0.1 to 0.08 for a person with one or no prior convictions relating to operating a motor vehicle with a prohibited alcohol concentration.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 340.01 (46m) (a) of the statutes is amended to read:

1 340.01 (46m) (a) If the person has ~~one or no~~ 2 or fewer prior convictions,
2 suspensions, or revocations, as counted under s. 343.307 (1), an alcohol
3 concentration of ~~0.1~~ 0.08 or more.

4 **SECTION 2.** 340.01 (46m) (b) of the statutes is repealed.

5 **SECTION 3.** 343.31 (1) (ar) of the statutes is amended to read:

6 343.31 (1) (ar) Injury by the operation of a commercial motor vehicle while the
7 person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08 and which
8 is criminal under s. 346.63 (6).

9 **SECTION 4.** 346.63 (2m) of the statutes is amended to read:

10 346.63 (2m) If a person has not attained the legal drinking age, as defined in
11 s. 125.02 (8m), the person may not drive or operate a motor vehicle while he or she
12 has an alcohol concentration of more than 0.0 but not more than ~~0.1~~ 0.08. One
13 penalty for violation of this subsection is suspension of a person's operating privilege
14 under s. 343.30 (1p). The person is eligible for an occupational license under s. 343.10
15 at any time. If a person arrested for a violation of this subsection refuses to take a
16 test under s. 343.305, the refusal is a separate violation and the person is subject to
17 revocation of the person's operating privilege under s. 343.305 (10) (em).

18 **SECTION 5.** 346.63 (5) (a) of the statutes is amended to read:

19 346.63 (5) (a) No person may drive or operate a commercial motor vehicle while
20 the person has an alcohol concentration of 0.04 or more but less than ~~0.1~~ 0.08.

21 **SECTION 6.** 346.63 (6) (a) of the statutes is amended to read:

22 346.63 (6) (a) No person may cause injury to another person by the operation
23 of a commercial motor vehicle while the person has an alcohol concentration of 0.04
24 or more but less than ~~0.1~~ 0.08.

25 **SECTION 7.** 885.235 (1g) (a) 1. of the statutes is renumbered 885.235 (1g) (a).

1 **SECTION 8.** 885.235 (1g) (a) 2. of the statutes is repealed.

2 **SECTION 9.** 885.235 (1g) (b) of the statutes is amended to read:

3 885.235 (1g) (b) Except with respect to the operation of a commercial motor
4 vehicle as provided in par. (d), the fact that the analysis shows that the person had
5 an alcohol concentration of more than 0.04 but less than ~~0.1~~ 0.08 is relevant evidence
6 on the issue of intoxication or an alcohol concentration of ~~0.1~~ 0.08 or more but is not
7 to be given any prima facie effect.

8 **SECTION 10.** 885.235 (1g) (bd) of the statutes is repealed.

9 **SECTION 11.** 885.235 (1g) (c) of the statutes is amended to read:

10 885.235 (1g) (c) The In cases involving persons who have 2 or fewer prior
11 convictions, suspensions, or revocations, as counted under s. 343.307 (1), the fact
12 that the analysis shows that the person had an alcohol concentration of ~~0.1~~ 0.08 or
13 more is prima facie evidence that he or she was under the influence of an intoxicant
14 and is prima facie evidence that he or she had an alcohol concentration of ~~0.1~~ 0.08
15 or more.

16 **SECTION 12.** 885.235 (1g) (cd) of the statutes is repealed.

17 **SECTION 13.** 940.09 (1) (bm) of the statutes is amended to read:

18 940.09 (1) (bm) Causes the death of another by the operation of a commercial
19 motor vehicle while the person has an alcohol concentration of 0.04 or more but less
20 than ~~0.1~~ 0.08.

21 **SECTION 14.** 940.09 (1) (e) of the statutes is amended to read:

22 940.09 (1) (e) Causes the death of an unborn child by the operation of a
23 commercial motor vehicle while the person has an alcohol concentration of 0.04 or
24 more but less than ~~0.1~~ 0.08.

25 **SECTION 15.** 940.25 (1) (bm) of the statutes is amended to read:

1 940.25 (1) (bm) Causes great bodily harm to another human being by the
2 operation of a commercial motor vehicle while the person has an alcohol
3 concentration of 0.04 or more but less than ~~0.1~~ 0.08.

4 **SECTION 16.** 940.25 (1) (e) of the statutes is amended to read:

5 940.25 (1) (e) Causes great bodily harm to an unborn child by the operation of
6 a commercial motor vehicle while the person has an alcohol concentration of 0.04 or
7 more but less than ~~0.1~~ 0.08.

8 **SECTION 17.** 949.08 (2) (em) of the statutes is amended to read:

9 949.08 (2) (em) Is an adult passenger in the offender's commercial motor
10 vehicle and the crime involved is specified in s. 346.63 (6) or 940.25 and the passenger
11 knew the offender was under the influence of an intoxicant, a controlled substance,
12 a controlled substance analog or any combination of an intoxicant, controlled
13 substance and controlled substance analog, or had an alcohol concentration of 0.04
14 or more but less than ~~0.1~~ 0.08. This paragraph does not apply if the victim is also a
15 victim of a crime specified in s. 940.30, 940.305, 940.31, or 948.30.

16 **SECTION 9353. Initial applicability; transportation.**

17 (1) PROHIBITED ALCOHOL CONCENTRATION. The treatment of sections 340.01
18 (46m) (a) and (b), 343.31 (1) (ar), 346.63 (2m), (5) (a), and (6) (a), 885.235 (1g) (a) 1.
19 and 2., (b), (bd), (c), and (cd), 940.09 (1) (bm) and (e), 940.25 (1) (bm) and (e), and
20 949.08 (2) (em) of the statutes first applies to offenses and refusals committed on the
21 effective date of this subsection but does not preclude the counting of other
22 convictions, suspensions, or revocations as prior convictions, suspensions, or
23 revocations for purposes of administrative action by the department of
24 transportation, sentencing by a court, or revocation or suspension of motor vehicle
25 operating privileges.



State of Wisconsin
2003 - 2004 LEGISLATURE

LRBb0371/1

PJH: *king*

LFB:.....*g* Jon Dyck – Lowering the prohibited blood alcohol concentration

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT ,

TO 2003 SENATE BILL 44

1 At the locations indicated, amend the bill as follows:

2 ✓ 1. Page 968, line 3: delete lines 3 to 7.

3 ✓ 2. Page 981, line 5: delete lines 5 to 8.

4 ✓ 3. Page 988, line 18: delete the material beginning with ~~SECTION~~ and ending with
5 with ~~SECTION~~ on page 989, line 9. *that line*

6 ✓ 4. Page 1025, line 1: delete lines 1 to 18.

7 ✓ 5. Page 1029, line 16: delete the material beginning with ~~SECTION~~ and
8 ending with ~~SECTION~~ on page 1030, line 7. *with that line*

9 ✓ 6. Page 1031, line 7: delete lines 7 to 14.

10 ✓ 7. Page 1123, line 10: delete lines 10 to 18.

1

✓ 8. Page 1135, line 2: delete lines 2 to 6.

2

(END)



State of Wisconsin
2003 - 2004 LEGISLATURE

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